

**Issue Paper 5: State Rules do Not Require Disclosure of HIV Infection to Another Person as
Required for other Sexually Transmitted Diseases
DRAFT**

PROBLEM STATEMENT: State law, RCW 70.24.140, sets one standard for disclosure for persons with HIV infection and another for persons with other sexually transmitted diseases, like syphilis and gonorrhea. This difference is inconsistent with public health recommendations for the prevention of disease transmission. As a result, some persons may not be informed of their risk of exposure to HIV prior to engaging in sexual intercourse or sharing drug- injection equipment.

DISCUSSION: When the AIDS Omnibus Law was adopted in 1988, it included the requirement that a person who knows that she or he has a sexually transmitted disease disclose this information to their partner prior to having sexual intercourse. Failure to disclose STD status would be a misdemeanor. HIV was specifically excluded from this requirement at the time of Omnibus adoption. At that time there were few treatments for HIV and it was generally believed that requiring HIV disclosure might discourage persons from seeking HIV counseling and testing as well as potentially marginalizing them even further. Because a variety of additional protections (including enhanced confidentiality) were built into the legislation, it was assumed that a greater societal good might be accomplished from excluding HIV from this disclosure requirement. In addition, concerns were raised about further disclosure of HIV-related information and the possibility of discrimination. Others argued that it was prudent for all persons to assume their partners might be HIV-infected and therefore up to them to protect themselves.

The last decade has seen a marked improvement in the therapies available for treating HIV infection, thus increasing the incentive and personal benefit from HIV testing and early medical care. The stigma associated with HIV infection has decreased significantly and discrimination concerns have greatly lessened. Therefore, it is unreasonable to continue the exclusion of HIV from disclosure of status requirements. In addition, the exception for disclosure of HIV infection is contrary to public health recommendations, as well as common sense, that all persons should disclose their infectious disease status to partners before engaging in sexual intercourse or sharing drug-injection equipment.

Required disclosure of HIV infection would have two potential benefits. First, the partner of the infected person would have more information about their potential risk of becoming infected with HIV and could make a more informed choice. A range of choices is available for reduction or elimination of risk, for example, abstinence, non-transmission interactions and condoms for sexual intercourse, as well as not sharing and disinfecting syringes with bleach for injection drug use.

Second, if an uninfected individual does choose to engage in sexual intercourse or sharing drug-injection equipment with a known HIV-infected partner, this individual may take certain beneficial actions, such as insisting on barrier protections. Furthermore, it may motivate individuals to seek HIV testing and care early if signs of viral infection appear. Early treatment and counseling could then prevent the further spread of HIV to others.

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